

EXHIBIT 12

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 15-2844(L), 15-2847(con), 15-2848(con) Caption [use short title] _____
Motion for: Redesignation as Appellants In re Motors Liquidation Company

Set forth below precise, complete statement of relief sought:

The Groman Plaintiffs respectfully ask the Court (i) to redesignate them from appellee to appellant
and permit them to submit briefing simultaneously with the other appellants; (ii) to direct the clerk
of the bankruptcy court to deliver the Groman Plaintiffs' appeal, including their statements of
of issues and designations of the record, to the Second Circuit, and (iii) to docket the Groman Plaintiffs'
appeal so it can be heard in conjunction with the other pending appeals from the Bankruptcy
Court's Decision filed April 15, 2015, and resulting Judgment dated June 1, 2015.

MOVING PARTY: Groman Plaintiffs

☒ Plaintiff ☐ Defendant
☐ Appellant/Petitioner ☐ Appellee/Respondent

OPPOSING PARTY: General Motors LLC, Wilmington Trust Co., Participating Unitholders

MOVING ATTORNEY: Alexander H. Schmidt

[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Arthur J. Steinberg, Lisa H. Rubin, Daniel H. Golden

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See all counsel of Record on Attachment A

Court-Judge/Agency appealed from: U.S. Bankruptcy Court for the Southern District of New York/Hon. Robert E. Gerber

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain): _____

Opposing counsel's position on motion:

☒ Unopposed ☐ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☒ No ☐ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency: _____

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date: _____

Signature of Moving Attorney:

/s/ Alexander H. Schmidt

Date: 10/1/2015

Service by: ☒ CM/ECF

☐ Other [Attach proof of service]

Attachment A

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**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

IN RE: MOTORS LIQUIDATION COMPANY,
Debtor,

IGNITION SWITCH PLAINTIFFS,
IGNITION SWITCH PRE-CLOSING ACCIDENT PLAINTIFFS,
Appellees,

CELESTINE ELLIOTT, LAWRENCE ELLIOTT, BERENICE SUMMERVILLE,
Appellants-Cross-Appellees,

GROMAN PLAINTIFFS
Appellees,

GENERAL MOTORS LLC,
Appellee-Cross-Appellant,

WILMINGTON TRUST COMPANY,
Appellee-Cross-Appellant,

PARTICIPATING UNITHOLDERS,
Creditors-Appellees.

**GROMAN PLAINTIFFS’
UNOPPOSED MOTION FOR REDESIGNATION AS APPELLANTS
AND MEMORANDUM IN SUPPORT**

ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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CORPORATE DISCLOSURE STATEMENT

Movant ABC Flooring Inc. is a non-public company that has no parent corporation, and no publicly held corporation owns 10% or more of its stock. No corporate disclosure statement is required for the other moving Groman Plaintiffs, each of whom is an individual and not a corporate entity.

Plaintiffs Dr. Steven Groman, Robin DeLuco, Elizabeth Y. Grumet, ABC Flooring, Inc., Marcus Sullivan, Katelyn Saxson, Amy C. Clinton, and Allison C. Clinton, individually and on behalf of all similarly situated persons (collectively, the “Groman Plaintiffs”), respectfully submit this *Unopposed Motion for Redesignation as Appellants*.¹ For the same reasons as set forth in the Ignition Switch Plaintiffs’ and Ignition Switch Pre-Closing Accident Plaintiffs’ (the “Moving Parties”) similar unopposed motion filed September 25, 2015 [Doc. 82], the Groman Plaintiffs seek relief from this Court’s September 9, 2015 Order that granted the Moving Parties’ and Groman Plaintiffs’ motions to intervene “insofar as the movants should be added to the captions of these appeals as appellees.” [Case No. 15-1958, Doc. 106]. To properly align the parties and ensure that briefing proceeds in an orderly fashion, the Groman Plaintiffs respectfully request the Court to redesignate them as appellants rather than appellees.

The Groman Plaintiffs also seek the related relief that their statement of issues and designation of the record on appeal, both of which were previously timely filed in the bankruptcy court, be deemed their statement of issues and

¹ The other parties to these proceedings do not oppose the relief sought by the Groman Plaintiffs in this Motion—designating and treating the Groman Plaintiffs as appellants in these proceedings in all respects, including by integrating their statements of issues and designations of the record on appeal into these proceedings. New GM, the GUC Trust, and the other parties, however, do not take any position as to the representations or arguments made in these Motion papers.

designation of the record on appeal for the Groman Plaintiffs as appellants. [Dkt. Nos. 13209; 13231.]² In this regard, the Groman Plaintiffs request that the Second Circuit direct the clerk of the bankruptcy court to deliver the Groman Plaintiffs' appeal to the Second Circuit and for the Second Circuit to docket that appeal so that it can be heard together with the other pending appeals.

The Groman Plaintiffs were one of the "Identified Parties" defined in the Bankruptcy Court's Scheduling Order, entered on May 16, 2014 [ECF 12697], designated to address in that Court the central issues now on appeal. The Groman Plaintiffs were also among the parties whose rights to appeal were specifically enumerated in the Bankruptcy Court's Order Certifying the Judgment for Direct Appeal to the Second Circuit [ECF 13178, at ¶ 5] ("... and the Groman Plaintiffs each reserve all of their rights with respect to the Appeal, including the right to challenge any of the factual and legal findings made by this Court in the Decision and to challenge certification for direct appeal").

On April 21, 2014, the Groman Plaintiffs filed a Class Action Complaint against General Motors LLC ("New GM"), as an adversary proceeding in the Bankruptcy Court, *Groman v. General Motors LLC (In re: Motors Liquidation Co.)*, Adv. Proc. No. 14-01929 (REG) [ECF 12619], which they amended on May 22, 2014 [ECF 12706]. The Groman Plaintiffs' complaint sought a declaratory

² References to "ECF ____" are to docket entries in *In re Motors Liquidation Co.*, Bankr. Case No. 09-50026 (REG).

judgment holding that a provision in the Section 363 Sale Order the Bankruptcy Court entered on July 10, 2009 enjoining future economic loss claims against General Motors LLC was not enforceable as against the Groman Plaintiffs or the class of Ignition Switch Defect plaintiffs they sought to represent.³

The Bankruptcy Court's *Decision on Motion to Enforce Sale Order, In re Motors Liquidation Co.*, 529 B.R. 510 (Bankr. S.D.N.Y. 2015) (the "Decision"), filed April 15, 2015, and resulting Judgment dated June 1, 2015 [ECF 13177], denied the Groman Plaintiffs' requested declaratory relief, dismissed the first of three causes of action asserted in the Groman Plaintiffs' complaint and stayed prosecution of the other two pending appeal, *id.* [ECF 13177, at ¶ 17].

The Groman Plaintiffs timely filed a Notice of Appeal in the Bankruptcy Court [ECF 13209] and a Statement of Issues on Appeal [ECF 13231], raising merits issues unique to them, including the propriety of the Bankruptcy Court's denials of the Groman Plaintiffs' requests for discovery, which denials were based in part on the fact that the other parties opposed conducting discovery [*see* Judgment, ECF 13177, at ¶ 15(a), (c)].

The Groman Plaintiffs should be permitted to prosecute their appeal as an appellant because they are plaintiffs who were aggrieved by the Bankruptcy Court's Decision and Judgment and rulings denying them discovery and

³ Capitalized terms not otherwise defined herein have the meanings given in the bankruptcy court's Decision of April 15, 2015. [ECF No. 13109.]

dismissing their claim. As aggrieved party plaintiffs, the Groman Plaintiffs should properly be designated as appellants along with the other similarly aggrieved party plaintiffs – Appellants Celestine and Lawrence Elliott and Berenice Summerville, and the Moving Parties Ignition Switch Plaintiffs and Ignition Switch Pre-Closing Accident Plaintiffs – and the Groman Plaintiffs should be permitted to brief their questions presented on appeal in an initial brief filed by an appellant.

The Groman Plaintiffs’ issues on appeal are not sensibly presentable in an appellees’ responsive brief because their issues are not responsive to any issue the existing Appellants or the Moving Parties will be presenting in their initial briefs. Instead, the Groman Plaintiffs’ issues and interests on appeal are aligned with and complement the issues and interests of those other plaintiffs, and the Groman Plaintiffs’ issues on appeal will be adverse, in whole or part, to the interests of the parties that have properly been designated as appellees, General Motors LLC, Wilmington Trust Company and the Participating Unrespectfully nitholders. To maintain an orderly briefing schedule and properly align the parties to this appeal, the Court should redesignate the Groman Plaintiffs as Appellants.

To avoid redundancy, the Groman Plaintiffs respectfully incorporate by reference and rely on the legal arguments presented in the Moving Parties Unopposed Motion. [See Doc. 82, at 9-11.]

CONCLUSION

For the forgoing reasons, the Groman Plaintiffs respectfully request that this Court enter an Order redesignating them as Appellants on this appeal.

Dated: October 1, 2015

Respectfully submitted,

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